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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |  |  |
|---|-------------|----------------------|---------------------|------------------|--|--|
| 10/825,729  | 04/16/2004  | Baird M. Smith       | PA2627US            | 8824             |  |  |
| 22830   | 7590        | 09/29/2008           | EXAMINER            |                  |  |  |
| CARR & FERRELL LLP<br>2200 GENG ROAD<br>PALO ALTO, CA 94303 |             |                      |                     | NAJARIAN, LENA   |  |  |
| ART UNIT  |             | PAPER NUMBER         |                     |                  |  |  |
| 3626  |             |                      |                     |                  |  |  |
| MAIL DATE   |             | DELIVERY MODE        |                     |                  |  |  |
| 09/29/2008  |             | PAPER                |                     |                  |  |  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/825,729             | SMITH, BAIRD M.     |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | LENA NAJARIAN          | 3626                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 16 April 2004.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-26 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-26 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 20050411; 20070921.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1-21 are objected to because of the following informalities: It appears that "repository" in line 7 of claim 1 was intended to be --repository-- (as in claim 22), which change will be assumed for purposes of further consideration of the claims as to the merits, hereinbelow. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 8 recites the limitation "the medical care devices or the medical monitoring devices" in line 3. There is insufficient antecedent basis for this limitation in the claim. The Examiner suggests Applicant amend the claim to recite "the medical care device or the medical monitoring device."

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-12, 14-20, and 22-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Reeder et al. (US 2002/0044059 A1).

(A) Referring to claim 1, Reeder discloses an integrated point-of-care system comprising (abstract and para. 2 of Reeder):

    a medical monitoring device configured to monitor patient information for a patient (para. 12 of Reeder);

    a medical care device configured to provide medical care to the patient (para. 14 and para. 84 of Reeder);

    a computing system configured to receive patient information from the medical monitoring device, transmit control instructions to the medical care device to control the medical care to the patient, and exchange data with a central data repository through a communication network (para. 14, para. 84, and para. 92 of Reeder); and

    a structure configured to support the patient, the medical monitoring device, the medical care device, and the computing system and transport the patient, the medical

monitoring device, the medical care device, and the computing system together (para. 3, para. 42, and para. 99 of Reeder).

(B) Referring to claim 2, Reeder discloses wherein the patient information comprises vital signs of the patient (para. 3 and para. 103 of Reeder).

(C) Referring to claim 3, Reeder discloses wherein the structure comprises a mattress configured to support the patient (para. 122 and Fig. 15 of Reeder).

(D) Referring to claim 4, Reeder discloses wherein the medical care device is configured to administer a medication to the patient (para. 121 of Reeder).

(E) Referring to claim 5, Reeder discloses a power supply configured to supply power to the medical care device and the medical monitoring device (para. 14 of Reeder).

(F) Referring to claim 6, Reeder discloses wherein the power supply comprises a battery (para. 123 of Reeder).

(G) Referring to claim 7, Reeder discloses wherein the computing system further comprises a display device configured to display the control instructions or patient information (para. 4 and Fig. 1 of Reeder).

(H) Referring to claim 8, Reeder discloses wherein the display device comprises a flat-screen touch panel configured to allow user input for controlling the operation of the medical care devices or the medical monitoring devices (para. 85 and para. 95 of Reeder).

(I) Referring to claim 9, Reeder discloses wherein the computing system further comprises a keyboard (para. 6 of Reeder).

(J) Referring to claim 10, Reeder discloses wherein the communication network is wireless (para. 6 and para. 89 of Reeder).

(K) Referring to claim 11, Reeder discloses wherein the computing system further comprises a memory storage system configured to store the patient information or control instructions (para. 5 of Reeder).

(L) Referring to claim 12, Reeder discloses wherein the computing system further comprises an identification device configured to identify a person (para. 105 of Reeder).

(M) Referring to claim 14, Reeder discloses wherein the identification device comprises a voice recognition device (para. 85 of Reeder).

(N) Referring to claim 15, Reeder discloses wherein the identification device comprises a visual recognition device (para. 134 of Reeder).

(O) Referring to claim 16, Reeder discloses a camera configured to generate a visual image (para. 90 of Reeder).

(P) Referring to claim 17, Reeder discloses wherein the computing system further comprises a barcode reader (para. 6 of Reeder).

(Q) Referring to claim 18, Reeder discloses wherein the computing system further comprises a communication interface configured to communicate with the Internet (para. 90 of Reeder).

(R) Referring to claim 19, Reeder discloses wherein the computing system further comprises a communication interface configured to communicate with a television service provider (para. 115 of Reeder).

(S) Referring to claim 20, Reeder discloses a plurality of wheels mounted on the bottom of the structure to facilitate transport of the patient and the medical devices (Fig. 18 of Reeder).

(T) Referring to claim 22, Reeder discloses a method of operating an integrated point-of-care system comprising the steps of (abstract and para. 2 of Reeder):

supporting a patient, a computing system, a medical care device, and a medical monitoring device by using a structure (para. 3, para. 42, and para. 99 of Reeder);

providing control instructions to the medical care device through the computing system to provide medical care to the patient (para. 14, para. 84, and para. 92 of Reeder);

receiving patient information from the medical monitoring device into the computing system (para. 12 of Reeder);

exchanging data between the computing system and a central data repository through a communication network (para. 14, para. 84, and para. 92 of Reeder); and

transporting the patient, the medical monitoring device, the medical care device, and the computing system together by using the structure (para. 3, para. 42, and para. 99 of Reeder).

(U) Referring to claim 23, Reeder discloses the step of displaying the patient information (abstract of Reeder).

(V) Referring to claim 24, Reeder discloses the step of identifying a person authorized to operate the computing system by using an identification device (para. 11 of Reeder).

(W) Referring to claim 25, Reeder discloses the step of identifying the patient by using an identification device (para. 11 of Reeder).

(X) Referring to claim 26, Reeder discloses the step of identifying a medication to be administered to the patient by using an identification device (para. 121 and para. 86 of Reeder).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reeder et al. (US 2002/0044059 A1) in view of Bui et al. (US 2003/0140928 A1).

(A) Referring to claim 13, Reeder does not disclose wherein the identification device comprises a fingerprint recognition device.

Bui discloses wherein the identification device comprises a fingerprint recognition device (para. 22, para. 125, and para. 128 of Bui).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned feature of Bui within Reeder. The motivation for doing so would have been to determine unique physical characteristics in order to provide security (para. 125 of Bui).

9. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reeder et al. (US 2002/0044059 A1) in view of Kramer et al. (US 2002/0014951 A1).

(A) Referring to claim 21, Reeder does not disclose a radiant warming device mounted on the structure to warm the patient.

Kramer discloses a radiant warming device mounted on the structure to warm the patient (para. 63 of Kramer).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned feature of Kramer within Reeder. The motivation for doing so would have been to accommodate the patients' needs (para. 63 of Kramer).

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches a hospital monitoring and control system and method (US 6,876,303 B2).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LENA NAJARIAN whose telephone number is (571) 272-7072. The examiner can normally be reached on Monday - Friday, 9:30 am - 6:00 pm.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/L. N./  
Examiner, Art Unit 3626  
In  
9/24/08

/Gerald J. O'Connor/  
Supervisory Patent Examiner  
Group Art Unit 3626